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C O R R E C T E D C O P Y (ADDED CLASSIFIED BY LINE)

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TAGS: PGOV PREL PHUM ECON SOCI CO

SUBJECT: LAND ISSUES REMAIN CONTENTIOUS IN COLOMBIA

REF: A. 07 BOGOTA 3855 B. 07 BOGOTA 4825 C. 07 BOGOTA
5444

Classified by: Political Counselor John S. Creamer
Reasons: 1.4 (b) and (d).

¶11. (U) Summary: The land issue is central to almost all aspects of consolidation and post-conflict reconstruction in Colombia. Not only is it of concern for victims and those displaced by the conflict, but boosting agricultural productivity is also a GOC priority. After over 50 years of conflict and with almost 3 million largely rural internally displaced persons (IDPs), the GOC is grappling with providing reparations to victims, building institutions to address land titling and other infrastructure issues, and promoting more effective land use. Colombia has enacted several agricultural laws in the last 15 years, but none has been successful in resolving land disputes and improving productivity. The 2007 rural development law attempts to better coordinate and manage land policy, but critics argue the GOC lacks the political will to address the land challenge. End Summary.

Amount of Land Stolen and Methods Used

¶12. (U) Estimates of land stolen and/or abandoned due to violence range from 2 million hectares to 14 million hectares. The GOC's Office of the Comptroller and the National Commission of Reconciliation and Reparations (CNRR) put the numbers at 2.9 million and 6.8 million hectares respectively. The Movement for Victims of Crimes of the State claims 14 million hectares have been stolen. Luis Alfonso Hoyos, Director of Accion Social, says there is no good data; all estimates are speculative.

¶13. (U) Land consultant Alejandro Reyes, who works with USAID's MIDAS program, agrees there is no good estimate of how much land has been stolen, but called 2 million hectares a conservative estimate. The number could be as high as 4-6 million hectares, with 350,000 families victimized. The Office of the Comptroller reports that of the land stolen, almost 33 percent is in the north-east Atlantic coast region, 27 percent is in the Llanos region, and another 16 percent is in Antioquia. Reyes told us while paramilitaries sometimes paid large sums of money for land, usually as a means of laundering money, a considerable amount of land was forcibly taken.

¶4. (U) There are five principal means by which land was stolen. In the departments of Antioquia, Cordoba, and Sucre, paramilitaries offered peasants ridiculously low sums to purchase their land under threat of violence. In Tolima, Magdalena, and other Atlantic Coast departments, peasants who did not have formal title to their land were usually confronted by paramilitaries and forced to sign a transfer of "rights" or suffer death. In La Guajira and Antioquia, paramilitaries often falsified papers to claim ownership or be able to sell property, forcing habitants off their land. Throughout the country, many campesinos who had neither title nor documented 'rights' were forcibly evicted from their land, while large land owners near by "sold" their fincas to paramilitaries.

... And Victims?

¶5. (U) Most experts claim that there are nearly 3 million displaced in Colombia, with some human rights groups asserting the figure may be as high as 4 million. Accion Social claims that there are 480,000 'vulnerable' displaced who are in need of immediate assistance and restitution or compensation for their land. Reyes argues that only 3-11 percent of the 480,000 victims who lost their land are interested in returning. A recent Brookings Institution report explains that in Colombia approximately 60 percent of IDPs left rural areas for urban areas and do not want to return. The report explains that "most IDPs (approximately 80 percent) are advocating for compensation for their lost property and for reparations for their displacement rather than return to their original land".

Seizing and Freezing Land for Victims

¶6. (U) Accion Social protects (by freezing transfer or registration of land titles) 2.525 million hectares in areas of risk or areas where IDPs have filed official complaints. The National Directorate of Narcotics has seized 800,000 hectares of former narco lands, but it is unclear how much of this will go to victims. The GOC has yet to decide if all lands seized from narcotraffickers will be made available for reparations or if only a portion will go for this purpose. To date, only 64,000 hectares confiscated from narcos are available for distribution. An additional 76,000 hectares seized through the Justice and Peace Law process can also be used for resale or restitution to victims. The Victim's bill pending in Congress tries to clarify what land would be available for distribution and/or resale for compensation. The Senate version of the Victims bill would also allow the GOC to seize an additional 2.5 million hectares for reparations, although it is unclear how this would be done or what land would be involved.

New Law Attempts to Resolve Past Problems

¶7. (C) In 2007, the Colombian Congress passed a law to promote productive land use, harmonize existing land laws and to reform the Institute for Colombian Rural Development (INCODER) (reftel). Lorena Garnica, a special advisor at Banco Agraria, told us that like the 1993 and 1994 agrarian laws, the 2007 Rural Development Law (Law 1152) attempts to rectify past problems--such as corruption in INCODER--and address new issues such as restitution and reparations to victims. Under the 2007 law, the Ministries of Agriculture, Interior, Banco Agraria and Accion Social took over aspects of land policy that previously belonged to INCODER. They are to focus on promoting efficiency in land titling, creating a sustainable restitution program, clarifying divisions of responsibilities over land oversight, resolving outstanding 'complicated' cases, and correcting past abuses by INCODER.

¶8. (C) The 2007 law does not address all problems and created new ones. Garnica explains that the law provides greater flexibility to the prior land reform initiatives to campesinos--and victims who choose to take part in the

program--to select their own land using subsidies provided by Banco Agraria through INCODER, but admits that dividing responsibilities for land issues was premature. Many GOC ministries or agencies do not have the expertise to oversee or implement land policy. Reyes is harsher, arguing that the GOC does not have the institutions, processes, or policies in place to resolve land issues. Moreover, while the National Victims Fund for Reparations--overseen by CNRR--manages most victims' issues, victims' land issues are jointly overseen by Accion Social, the Interior Ministry and the High Commission for Reintegration (ACR), further complicating the process of recovering property or receiving compensation. The Victim's bill would address some issues, but would leave unanswered questions over financing, freezing of assets, and recovery of land in licit hands.

New Initiatives: PRORET and CONRET

¶9. (U) MinAg has created two new entities--the Land Reclamation Program (PRORET) and the Consultations on Recovery of Lands (CONRET) program--to resolve ongoing land disputes, correct past INCODER policies, undertake community outreach, and oversee pilot programs in particularly difficult consolidation regions. Both programs are very small initiatives, with one investigating official complaints about INCODER's activities, and the other undertaking specific projects such as land titling. Eugenia Mendez, who runs both programs, told us that the project is understaffed due to funding shortfalls, forcing them to rely on the assistance and pro-bono work of law students. Additionally, through PRORET and CONRET, the GOC has consulted with communities throughout the country and helped 1500 people to pursue legal claims and/or clarify land status. Mendez explains that the success of these programs depends on additional funding and support from local mayors and governors.

Pilot Programs

¶10. (C) Carolina Riveros of MinAg told us she oversees a separate 'special' projects as well as pilot programs on land restitution, distribution and titling in Curvarado and Jiguamiando (Antioquia and Choco), La Macarena (Meta) and southern Bolivar. While the pilot programs are small--in La Macarena it is only 40,000 hectares--Riveros said they are seeing quick, positive results. The intention is to expedite land titling and to support productive projects in areas with high displacement and formerly high coca cultivation. Still, Alvaro Bacazas, the civilian head of the Fusion Center (CFI) in La Macarena, said MinAg is not committed to the "pilot" program in La Macarena. Implementation is moving far too slowly, and few titles have been issued. He believes the problem is not unique to Meta, and blamed "institutional paralysis" within the MinAg for the failure to progress on land issues.

¶11. (C) Another unresolved issue is the use around and within national park reserves. Riveros explains that the MinAg is considering titling land around national parks in the Serrania of Macarena and in southern Bolivar, but faces substantial resistance due to protection laws that set up the reserves as well as environmentalists. Reyes argues that this decision could open the door to destroying national parks and important eco-systems. He also believes that the people who live in these regions are only there because of coca production. He suggests it would be better to offer them productive land elsewhere, noting that this might also reduce coca cultivation.

Critics Have Concerns But Few Answers

¶12. (C) There are many efforts underway to address the myriad issues affecting land policy and implementation, but most of these initiatives are too small and too disconnected to have

a lasting impact. Juan Carlos Palou of Ideas Para la Paz, a private sector-funded think tank, told us the land issues are so complex and politically charged--especially at the local level--that no one wants to assume responsibility for them. The GOC has divided responsibilities between different agencies, so that no one can be blamed for failing. The current programs are only temporary fixes, when what is needed is a national strategy with one agency tasked with implementation.

¶13. (C) The opposition and some human rights groups sharply criticize GOC land policies, but beyond general principles, fail to provide concrete alternatives. Liberal Party Senator Cecilia Lopez charges that the GOC lacks the political will to take the land away from paramilitaries and narcos, leaving it in the hands of their surrogates or family, but has not sketched out an alternative approach. Similarly, Jorge Rojas of the human rights group CODHES--which focuses on IDP issues--says the GOC needs a national land strategy that incorporates land redistribution, provides opportunities to IDPs and victims to return to an agricultural way of life if desired. Still, Rojas provides no estimates on cost or how to achieve such goals.

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